

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Criminal No. 13-080 (JNE/SER)

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	<b>GOVERNMENT’S POSITION WITH</b>
	)	<b>RESPECT TO SENTENCING</b>
CAROLYN JEAN CASSAR,	)	
	)	
Defendant.	)	

The United States of America, by and through its attorneys, John R. Marti, Acting United States Attorney for the District of Minnesota, and Tracy L. Perzel and Katharine Buzicky, Assistant United States Attorneys, hereby submits its position with respect to sentencing of defendant Carolyn Jean Cassar.

Defendant deceived her elderly, next-door neighbors day in and day out for almost six years, convincing them to loan her money on 375 occasions for a total of approximately \$840,000 of her victims’ life savings. Just days before trial, after substantial trial preparation by the government, the defendant pleaded guilty to one count of wire fraud. Despite her plea of guilty, the defendant offers no real remorse and has simply redirected her deception to this Court and the U.S. Probation Office. Based on consideration of the defendant’s offense conduct, her conduct post-plea, and the sentencing factors set forth in Title 18, United States Code, Section 3553(a), the government respectfully requests an upward variance to a sentence of 84 months imprisonment.

## 1. GUIDELINES CALCULATIONS

The government concurs with the guideline range calculated by U.S. Probation, specifically 37 to 46 months. This results from the defendant's criminal history category of I and the total offense level of 21, calculated as follows:

Base offense level	7
Loss \$400,001 to \$1 million	14
Vulnerable victim	2
Acceptance of responsibility	-2 <sup>1</sup>

## 2. REASONABLE SENTENCE

Of course, the guidelines are simply the advisory starting point that the Court considers with the remaining § 3553(a) factors to arrive at a reasonable sentence. *Gall v. United States*, 552 U.S. 38, 51 (2007). In sum, the Court looks to the nature and circumstances of the offense; the history and characteristics of the defendant; the seriousness of the offense; the need to promote respect for the law; the need to provide adequate deterrence and protection of the public; the need to provide the defendant with needed educational training, vocational training, medical care, or other correctional treatment in the most effective manner; the kinds of sentences available; and the advisory guideline range. 18 U.S.C. § 3553(a).

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<sup>1</sup> As stated at the plea hearing and memorialized in the plea agreement, the government will *not* move for the additional one-level reduction for acceptance of responsibility because the defendant chose to plead guilty just days before the start of trial and the government had expended substantial time and resources preparing for trial.

## OFFENSE CONDUCT

Here, the defendant's offense conduct evidences a cunning financial predator, motivated by greed and perceived entitlement. The defendant deceived her elderly, next-door neighbors, L.C. and H.C. ("the victims"), lying to them day after day for nearly *six years* to line her pockets with \$840,000 of their money. On at least 375 occasions, she spoke face-to-face with the two nonagenarians and manipulated them into loaning her the overwhelming majority of their life savings.

During their more than 70 years of marriage, the victims raised four sons in a modest home as L.C. worked his way from military service through jobs that led to him supervising the maintenance operations for the local school district. He loved the children he came to know through his job and often volunteered his extra time with them before retiring with over 38 years of public service. He and H.C. lived frugally, having experienced extreme financial hardships as childhood survivors of the Great Depression. Their life experiences unfolded almost entirely in and around Rochester, Minnesota, and made them the kind, trusting, and giving people on whom the defendant preyed. With humble education and jobs, H.C. and L.C. lived simply, scrimping and saving to grow their life savings to nearly \$1 million. They hoped their savings would allow them to live their last years independently, such that they would not need to rely on others or enter a nursing home, the latter of which was and remains H.C.'s greatest fear.

The victims' neighbor, the defendant, had an insatiable appetite for money and self-gratification and repeatedly constructed lies to part H.C. and L.C. from their money, all based on the defendant's recurring promise to pay them back. The defendant's multi-

year deceit of L.C. and H.C. started when L.C. offered to help the defendant finish a gazebo that L.C. saw her building in her backyard. L.C. assisted with the construction, and even purchased needed materials at the defendant's request. After that project, the defendant steadily maneuvered her way into the elderly couple's lives, hearts, and bank accounts with concocted hard-luck stories and fictional tragedies.

For example, the defendant told H.C. and L.C. that her daughter had a terrible accident and soon died as a result. The defendant used this and other lies to legitimize her requests for money from H.C. and L.C. When it worked, her lies mushroomed. She claimed her house was contaminated and affecting the functioning of equipment at the Mayo Clinic, such that she was city-ordered to remediate the problem or face a lawsuit. As a result, H.C. and L.C. loaned her money for the remediation and, therefore, had no reason to question the substantial work contractors were performing to improve her home. She also told the victims that her ex-husband had murdered her sisters and fled to Italy with family heirlooms and that her business manager had defrauded her of an inheritance from her father. Thus, the defendant led H.C. and L.C. to believe she repeatedly needed to travel to Italy and to pay various fees in connection with the prosecution of her ex-husband and the pursuit of her dishonest business manager.<sup>2</sup> All of it was false. Her house was not required to be remediated; her ex-husband had remarried and was living in Michigan; all of her sisters were then and remain alive; and she never had a business manager or any sizeable inheritance.

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<sup>2</sup> The defendant even provided airline itineraries, hotel booking information, and photographs related to her trips to legitimize her lies. *See, e.g.*, Gov't Ex. 1 (select travel-related items H.C. and L.C. received from the defendant).

Calculatingly, the defendant used the false claims of a pending inheritance to assuage the victims' concerns over whether the defendant would have the financial wherewithal to repay them. She told the victims that her father had been a wealthy Bell Telephone executive and died, leaving her a sizeable inheritance. As the defendant anticipated, this gave the victims comfort that the defendant would soon have the ability to repay them and gave the defendant additional fodder for extracting more of their money. For example, the defendant claimed she needed money to hire attorneys to secure her inheritance, to buy insurance for her inheritance, to pay probate costs, and to arrange transport for the bequeathed assets among other related expenses. And, of course, the defendant's promises that the inheritance would arrive any day convinced the victims that they needed to continue loaning her money to secure their eventual repayment.

For their part, H.C. and L.C. tried to keep track of the money they repeatedly loaned the defendant and the myriad reasons she claimed for needing it. *See* Gov't Ex. 2 (contemporaneous handwritten notes of H.C.). They even tried to hold the defendant to her word by having the defendant sign the ledgers and other documents acknowledging the ever-increasing debt. *See, e.g.*, Gov't Ex. 3 (signed acknowledgements of debt).

Stealing the victims' money and maintaining her enormous web of lies was the defendant's full-time job. She spent her "earnings" on extravagant luxuries, which required maintaining an entirely different set of lies that, unknown to H.C. and L.C., often contradicted the lies the defendant had told them. Her grand dreams included building a multi-million-dollar Italian villa, which she hired an architect to design, a

contractor to build, and a designer to furnish. *See, e.g.*, Gov't Ex. 4 (select architectural renderings of villa by architect J.H.). To those individuals, the defendant portrayed herself as an eccentric woman of great wealth, with elegant taste in design and architecture, and who enjoyed traveling to Italy – often footing the bill for her entourage (her architect, her builder, her son and his girlfriend) – to get design ideas and to sight-see. As a prelude to building her villa, the defendant tested the building and decorating skills of her contractor and designer with expensive improvements to her Rochester residence. *See, e.g.*, Gov't Ex. 5 (select receipts from V.H. interior design studio and designer D.L.) and Gov't Ex. 6 (select receipts from L.R.H. builder). For years, she successfully maintained two sets of sophisticated lies – false tales about family tragedies for the victims and intricate fabrications about her personal riches for her architect, designer, and builder. *See, e.g.*, Gov't Ex. 7 (select email exchange between architect J.H. and the defendant).

Not surprisingly, the defendant's fraud has irreparably damaged her victims. For almost six years, they believed their neighbor was a kind individual suffering the pain of one horrible event after another. They were devastated when they learned that the defendant's stories had all been lies and that there was no inheritance to repay them. As a result of this betrayal and the shame they feel about being "foolish," their health has dramatically declined, and they have only a small fraction of their life savings left to see them through their final years. Today, they suffer from sleepless nights, headaches, and other stress-related medical conditions, which they attribute to the defendant's fraud.

## POST-PLEA CONDUCT

Even though the defendant has entered a plea of guilty, she persists in her deceptive and calculating behavior, now attempting to manipulate this Court. The defendant is anything but genuinely remorseful and desirous of changing her scheming behavior. Indeed, she has continued lying – often at others’ expense – all to benefit herself. To this Court (through the presentence investigation report), the defendant persists in lying with outlandish claims about her ex-husband and his purported abuse of her and their now-grown children. (PSR ¶ 52).<sup>3</sup> Not a shred of it is true, as the diligent probation officer discovered by investigating the defendant’s claims. (PSR ¶¶ 54-56).<sup>4</sup> Through these lies the defendant has sought to deceive and secure leniency from this Court, while again victimizing her ex-husband, her son, and her daughter, who are – to the defendant – nothing more than pawns in her manipulative and selfish bid to benefit

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<sup>3</sup> The United States respectfully requests that the defendant’s claims in the PSR concerning her living relatives be removed or redacted to protect those individuals. (*See* PSR ¶ 53-57).

<sup>4</sup> The probation officer’s diligence and ultimate uncovering of the truth does not change the fact that the defendant lied to this Court and probation in connection with a presentence investigation for the Court. “[P]roviding materially false information to a probation officer in respect to a presentence ... investigation for the court” constitutes obstruction for which a two-level upward adjustment may apply under the guidelines. U.S.S.G. § 3C1.1. Similarly, “[c]onduct resulting in an enhancement under § 3C1.1 (Obstructing or Impeding the Administration of Justice) ordinarily indicates that the defendant has not accepted responsibility for [her] criminal conduct.” U.S.S.G. § 3E1.1, cmt. n. 4. Rather than seeking application of these guideline provisions, the government respectfully requests the Court to consider the defendant’s obstructive conduct in determining a reasonable sentence.

herself. Time and time again, when presented with the choice of telling the truth and lying, the defendant chooses to lie with no concern whatsoever for whom she is lying to or the damage (financial, emotional, or otherwise) her lies inflict on others.<sup>5</sup> This master manipulator must now face appropriate consequences that will address both her long-lived and unrelenting deceit as well as and the substantial likelihood she will reoffend.

### **SENTENCING REQUEST**

Based on the foregoing, the United States respectfully requests the Court to impose a term of imprisonment of 84 months, equivalent to one month for each \$10,000.00 that the defendant stole from her elderly neighbors. The guideline range of 37 to 46 months wholly fails to capture the egregious nature and circumstances of the offense, the defendant's history and characteristics, and the need to protect the public, as evidenced by:

- The defendant's attempted obstruction of the sentencing process through lies to this Court and the probation officer (in the presentence investigation process), lies which again serve to victimize her ex-husband, her daughter and her son;
- the extended length of the instant offense (six years);
- the number of times therein that the defendant personally – face-to-face – deceived her victims into loaning her money (375);
- the defendant's attempts to manipulate her elderly neighbors with feigned affection by visiting L.C. at a nursing home (where he was heavily medicated) and manipulating him into loaning her \$25,000.00, false protectiveness in the form of the defendant's claims that their sons were stealing from them, offers

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<sup>5</sup> The defendant even lied to this Court (through the PSR) about aspects of her childhood. For example, the defendant did not play the viola at the age of 14 in the Saginaw Bay Symphony. (PSR ¶ 48, *cf.* Gov't Ex. 8 (email and attachment from conductor)).



to adopt them as her parents (and, conveniently, counterproposals for them to adopt her), and cloying niceties (“I love you,” “Sweetie,” “Honey”);

- the defendant’s emotional victimization of her ex-husband, daughter, son, and two sisters using them as unwitting subjects of the horrendous lies she told to facilitate her scheme;
- the defendant’s fraudulent use of legitimate and trusted public individuals and entities to add a veneer of credibility to her lies (the Minnesota Attorney General’s Office, the Federal Reserve Bank, the IRS, the City of Rochester, the Mayo Clinic, and Olmstead County District Court Judge Robert Birnbaum);
- the substantial financial and emotional harm to the elderly couple, particularly considering their advanced ages and substantially limited ability to recover from such devastating financial loss (\$840,000.00), emotional betrayal, and physical manifestations of stress and profound shame; and
- finally, the defendant’s continued efforts, following involvement of law enforcement, to continue to manipulate and shame the elderly couple into believing that they were responsible for the fact that she could not repay them.

Through her conduct, the defendant sought to live a life of luxury on the backs of her elderly neighbors and, now caught, the defendant has lied to this Court, seeking pity and leniency. She, and only she, has laid the foundation for the significant sentence her conduct warrants and which will protect the public from her unending efforts to deceive and defraud. Again, the United States respectfully requests an upward variance to a term of 84-months imprisonment.

Dated: October 24, 2013

Respectfully Submitted,

JOHN R. MARTI  
Acting United States Attorney

*s/Tracy L. Perzel*

BY: TRACY L. PERZEL  
Assistant U.S. Attorney  
Attorney Id No. 296326